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# LETTER DATED 9 JUNE 1997 FROM THE EXECUTIVE CHAIRMAN OF THE SPECIAL COMMISSION ESTABLISHED BY THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 9 (b) (i) OF SECURITY COUNCIL RESOLUTION 687 (1991) ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In the report of the Secretary-General on the activities of the Special Commission (S/1997/301, annex), which was submitted to the Security Council on 11 April 1997, reference is made to the Commission's air operations (paras. 31-33). Attention is drawn, in particular, to various serious incidents regarding those operations that occurred during the reporting period. Those incidents encompassed attempts to exclude areas from overflight and threats to the safety and integrity of the aircraft and their crews, including efforts to wrest control of the Commission's aircraft from the crew and dangerous manoeuvres by the accompanying Iraqi helicopter to force the Commission's aircraft to deviate from its route. The report also outlined the steps taken by the Commission to attempt to remedy this matter, in particular through both written and oral protests to the Deputy Prime Minister of Iraq. In the report I expressed the hope that some arrangements arrived at during my April 1997 visit to Baghdad would serve to rectify the situation. Unfortunately, this has not proved to be the case and there has been a repeat of all of the actions of the sort described above. The situation has reached the point where it appears necessary to raise the matter directly with the Council.

The Commission's helicopter operations form an integral part of its inspection activities in Iraq, whether related to Iraq's prohibited programmes and activities or to monitoring. Many of these activities cannot be carried out with the assurance that sites to be inspected are secure unless aerial surveillance is conducted to ensure that no personnel, vehicles or aircraft leave the sites. The effectiveness of inspections is gravely diminished in many cases where aerial surveillance is interfered with by the Iraqi personnel, either in the Commission's aircraft or in an accompanying Iraqi helicopter. These personnel are intended to ensure liaison with the Iraqi authorities on the ground or in the air and they have no authority to dictate the route or other issues relating to the flight of the aircraft. Where such interference occurs, the Commission cannot carry out its tasks in a satisfactory manner.

The Security Council has been aware of the importance of the Commission's air operations by providing in its resolutions and related texts that the Commission has the right to conduct both fixed-wing and helicopter flights throughout Iraq for all relevant purposes, including inspection, surveillance, aerial surveys, transportation and logistics without interference of any kind and upon such terms and conditions as may be determined by the Special Commission. Iraq is bound by and has accepted its obligations in these respects, but during recent weeks has failed to honour them in practice.

In the last few days, there have been four serious incidents in which the lives of the crews of the Commission's helicopters and the aircraft themselves were endangered through the actions of the Iraqi air personnel on board the aircraft or through the manoeuvres of the accompanying Iraqi helicopter. These actions resulted in the air missions' having to be terminated without successfully carrying out their tasks.

In the first incident, on 4 June 1997, when the Commission's aircraft was seeking to orbit the inspection site, the Iraqi air personnel threatened to shut off the fuel pump and physically man-handled the Chief Air Inspector and the Commission's photographer in order to prevent them from taking photographs of the inspection site, including the departure from that site of two Iraqi helicopters.

In the second incident, on 5 June 1997, one of the Iraqi personnel, among other actions, grabbed the co-pilot's control (cyclic-stick), shaking it very violently, leading the Commission's pilot immediately to abort the mission and to return to his base.

The third and fourth incidents occurred on 7 June 1997. In the third incident, an accompanying Iraqi helicopter placed itself in the path of the Commission's aircraft, causing the Commission's pilot to make a radical manoeuvre to avoid a dangerous situation. Subsequently, one of the Iraqi personnel interfered with the flight controls by placing his foot on the pilot's collective lever with considerable force, resulting in a temporary deviation from controlled flight. He said formally that he would do whatever he could to stop the aircraft flying and indicated that he was acting under orders. The Commission's pilot, therefore, aborted the mission and returned to base.

In the fourth incident, the accompanying Iraqi helicopter flew alongside, but slightly higher than the Commission's helicopter, so close that its main rotor overlapped the rotor of the Commission's aircraft by some eight feet. When the Commission's crew told the Iraqi personnel on board to order the accompanying aircraft to move away, the individual involved replied that he would not do so as he had orders from Baghdad. He also said that he was not prepared to guarantee the safety of the Commission's aircraft.

All these incidents appeared to have been motivated by a determination on the Iraqi side not to permit the Commission to operate its aircraft in the neighbourhood of areas that Iraq considered to be "sensitive" or "diplomatic" sites, despite the fact that those sites were under ground inspection where access was permitted. In each case, it was only the professional and quick

response of the Commission's pilots that prevented the occurrence of tragic accidents.

Wishing to avoid having to raise the matter directly and immediately with the Council, I wrote to the Deputy Prime Minister of Iraq on 5 June, protesting, at that time, the one incident of which I was aware and which had occurred on 4 June. In that letter, I recalled the undertakings that the Deputy Prime Minister had given in April 1997 during our meetings in Baghdad and during which Iraq had agreed that the Commission's pilot was solely responsible for the operations of his aircraft and for its safety and that it was totally unacceptable to try and settle disputes through physical action in flight. I requested that orders be issued again to the National Monitoring Directorate and to those responsible for providing Iraqi air personnel for the Commission's helicopter operations to honour Iraq's commitments in respect of those operations. I indicated, however, that, in view of these continuous incidents, no Iraqi personnel who had engaged in activities that interfered with and threatened the safety of the Commission's flights should be permitted on board the Commission's aircraft.

The second incident was the subject of a protest sent on 5 June 1997 by the Deputy Executive Chairman on my instructions as I was away from the Commission's headquarters. In that letter, the Deputy Executive Chairman requested that the Government of Iraq provide immediate written assurances that it had taken appropriate measures to avoid the recurrence of violations of the nature complained of. If not, the matter would be brought to the attention of the Security Council.

In a reply to my letter of 5 June, the Deputy Prime Minister of Iraq regretted the Commission's accusations, which he stated to be based on a single incident among hundreds of flight operations. He also questioned the facts of the incident but indicated that he had directed that the Iraqi air personnel concerned in the incident be relieved of duties associated with the work of the Commission. However, the letter did not provide any assurances that the Commission's flying rights would be permitted to proceed as required by the Council.

In a letter dated 6 June 1997, the Under-Secretary of the Ministry for Foreign Affairs of Iraq, responding to the Deputy Executive Chairman's letter of 5 June, merely sought to justify the actions of the Iraqi air personnel and failed to give the assurances that had been requested regarding Iraq's taking proper measures to avoid the recurrence of such violations.

As demonstrated by two further incidents following on the Commission's letters, the assurances and effective measures that have been sought by the Commission to resolve this matter have not been forthcoming. The Commission cannot carry out its responsibilities, either with respect to the inspections related to Iraq's prohibited activities or with respect to monitoring, if the related air operations are interfered with and if the crew and aircraft are being placed in the most imminent danger. The Commission is concerned that it is faced by a situation where there has been a deliberate decision to hinder and, indeed, render many of its operations ineffective and that the incidents cannot just be ascribed to ill-advised actions by individuals on the spur of the

moment. The Commission, therefore, considers that, in order to enable it to proceed in the most effective manner, the Security Council might wish to remind Iraq of its obligations under resolutions 687 (1991), 707 (1991) and 715 (1991) to permit the Commission to carry out its air operations anywhere in Iraq without interference of any kind and upon such terms and conditions as the Commission may determine. It might also wish to remind Iraq of its obligations under the relevant resolutions and the exchange of letters of May 1991 to guarantee the safety and security of the Commission's aircraft and personnel.

I would be most grateful if the present letter could be brought to the attention of the members of the Council for their consideration.

(Signed) Rolf EKÉUS
Executive Chairman

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